



GARY R. HERBERT  
Governor

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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

5752

February 6, 2014

Mike Dalley  
Staker & Parson Companies  
89 West 13490 South, STE 100  
Draper, UT 84020

Subject: Re-assessment for State Notice of Violation No. MN-2013-60-03, Staker and Parson Companies, Keigley Quarry, M/049/0001, Utah County, Utah

**Response Due By: 30 Days of Receipt**

Dear Mr. Dalley:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced notice of violation (NOV). The NOV was issued by Division inspector, April Abate on December 4, 2013. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$0.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this NOV has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, If you wish to informally appeal the 'fact of the violation', you should file a written request for an informal conference within thirty 30 days of receipt of this letter. The informal conference will be conducted by a Division-appointed conference officer. **If a timely request for review is not made, the fact of the violation will stand.**

Sincerely,

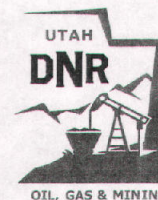
Lynn Kunzler  
Assessment Officer

LK: eb

Enclosure: Proposed assessment worksheet

cc: Vickie Southwick, Exec. Sec.

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B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? Actual  
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 12

**PROVIDE AN EXPLANATION OF POINTS:** Inspector indicated that without a clear plan, inspections were hindered in that it is difficult to know what activities, facilities, variances, etc. are approved, and which ones are not. Points are assigned at the midpoint of the range since there is no documented event or potential event that would be in violation of the Act, Rules, or Permit.

TOTAL SERIOUSNESS POINTS (A or B) 12

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. IF SO--NO NEGLIGENCE; or, , IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE. Point Range

No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?) 0

Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?) 1-15

Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?) 16-30

STATE DEGREE OF NEGLIGENCE Negligent

ASSIGN NEGLIGENCE POINTS 5

**PROVIDE AN EXPLANATION OF POINTS:** There is a history going back 10 years requesting the permit be consolidated and updated. Notices includes both verbal and written, with deadlines being established and extensions being requested at the last minute – and still not receiving the requested information. It should also be pointed out that even though this has been going on for about 10 years, the Operator has provided much of what has been asked for, including updated maps and surety. The Operator has also pointed out that he has been cooperating with the Division to resolve issues not just with this operation but several operations throughout the State. Points are therefore assigned at the lower third of the Negligence range.



**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

**Has Violation Been Abated?** Violation was terminated effective January 31, 2014, a full 30 days prior to the deadline.

- A. EASY ABATEMENT (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

|   | <u>Point Range</u> |
|---|--------------------|
| Immediate Compliance<br>(Immediately following the issuance of the NOV)   | -11 to -20         |
| Rapid Compliance<br>(Permittee used diligence to abate the violation.<br>Violation abated in less time than allotted.)                  | -1 to -10          |
| Normal Compliance<br>(Operator complied within the abatement period required,<br>or, Operator requested an extension to abatement time) | 0                  |

- B. DIFFICULT ABATEMENT (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

|   | <u>Point Range</u> |
|---|--------------------|
| Rapid Compliance<br>(Permittee used diligence to abate the violation.<br>Violation abated in less time than allotted.)  | -11 to -20         |
| Normal Compliance<br>(Operator complied within the abatement period)  | -1 to -10          |
| Extended Compliance<br>(Operator complied within the abatement period required,<br>or, Operator requested an extension to abatement time)<br>(Permittee took minimal actions for abatement to stay<br>within the limits of the violation, or the plan submitted<br>for abatement was incomplete.) | 0                  |

EASY OR DIFFICULT ABATEMENT? This is considered a 'Difficult' abatement since the submission of plans is required. This was determined to be 'immediate compliance.'

**ASSIGN GOOD FAITH POINTS** 17

**PROVIDE AN EXPLANATION OF POINTS:** \_\_\_\_\_

The submitted revised NOI appears to be a quality submittal, given that the operator completed the task in about 54 days vs. the 105 days originally requested, points were assigned at the midpoint of the upper 1/2 of the range.

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

|      |                            |                      |
|------|----------------------------|----------------------|
| I.   | TOTAL HISTORY POINTS       | <u>0</u>             |
| II.  | TOTAL SERIOUSNESS POINTS   | <u>12</u>            |
| III. | TOTAL NEGLIGENCE POINTS    | <u>5</u>             |
| IV.  | TOTAL GOOD FAITH POINTS    | <u>-17</u>           |
|      | TOTAL ASSESSED POINTS      | <u>0</u>             |
|      | <b>TOTAL ASSESSED FINE</b> | <b><u>\$0.00</u></b> |